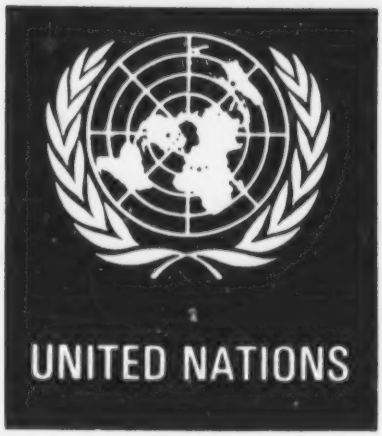

DIVISION FOR
PALESTINIAN RIGHTS

EIGHTH UNITED NATIONS NORTH AMERICAN SEMINAR ON THE QUESTION OF PALESTINE

(Thirtieth United Nations Seminar)

Theme: "Enforcing the Fourth Geneva Convention for ensuring the protection of the Palestinian people in the occupied Palestinian territory, including Jerusalem"

United Nations Headquarters, New York,

22-23 June 1992

92-66205

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Introduction

1. The Eighth United Nations North American Seminar on the Question of Palestine on the theme "Enforcing the Fourth Geneva Convention for ensuring the protection of the Palestinian people in the occupied Palestinian territory, including Jerusalem" was held at United Nations Headquarters, New York, on 22 and 23 June 1992. The Seminar had been mandated by General Assembly resolution 46/74 B of 11 December 1991.

2. H.E. Mr. Victor Camilleri (Malta), Rapporteur of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, was Chairman and Rapporteur of the Seminar.

3. Four meetings were held and seven experts presented papers on the theme of the Seminar. Representatives of 51 Governments, 9 United Nations specialized agencies and bodies, 3 intergovernmental organizations, as well as 14 non-governmental organizations attended the meeting.

A. Opening statements

Statement by the President of the General Assembly

4. The opening session was addressed by the President of the General Assembly, H.E. Mr. Samir S. Shihabi. He emphasized that the 25-year Israeli military occupation of the Palestinian territory of the West Bank and Gaza, including Jerusalem, and other Arab territories, continued, despite United Nations resolutions and efforts to bring about a peaceful and just settlement. Its tragic consequences for the Palestinian people were the subject of the seminar. Although the General Assembly and the Security Council had repeatedly affirmed that the occupying Power was bound by the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, Israel continued to reject that international consensus.

Referring to the obligations of the High Contracting Parties under the Convention, he stressed that Israeli violations of the Convention included attempts to alter the status of Jerusalem; the establishment of Israeli settlements; deportations of Palestinian civilians; collective punishments, such as curfews, destruction of houses and property, and prolonged closure of schools; and interference with the educational system and the provision of medical care. He said the General Assembly and the Security Council had called on Israel to desist from policies and practices that violated the Convention, and had censured Israel's refusal to comply with relevant resolutions. He recalled that in resolution 681 (1990), the Security Council called upon the High Contracting Parties to ensure respect by Israel for its obligations under the Convention and had asked the Secretary-General to develop further the idea of convening a meeting of the High Contracting Parties to the Convention to discuss possible measures that might be taken by them. He expressed the hope that the Seminar might make a constructive contribution to such thinking.

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He said that the question of Palestine had been a major concern ever since the establishment of the United Nations, and the Organization bore a historic responsibility towards ensuring its just settlement and a full restoration of the legitimate national rights of the Palestinian people, especially since numerous General Assembly and Security Council resolutions remained to be implemented. In the new positive international climate, it was incumbent upon all, particularly the United Nations, to keep the efforts and the search for a just solution to the question of Palestine high on the international agenda. It was imperative for the United Nations to play a central role in that process. The Organization must ensure the implementation of its resolutions on the question of Palestine and the situation in the Middle East, in particular Security Council resolutions 242 (1967) and 338 (1973), which, in the final analysis, represented the commitment of the international community.

He concluded by saying that the restoration of respect for the human rights and fundamental freedoms of the Palestinians living in the occupied territory, including Jerusalem, and for the Fourth Geneva Convention, would help create a climate more conducive to a just peace. National rights and basic human rights were the foundation without which neither security, nor peace, nor stability could be secured.

Statement by the representative of the Secretary-General of the United Nations

5. The opening ceremony was also addressed by the representative of the Secretary-General of the United Nations, the Under-Secretary-General, Special Representative for Public Affairs, Mr. Joseph Verner Reed. In welcoming the participants he stressed that the convening of the seminar showed the concern with which Member States viewed the continuing Middle East problem and the question of Palestine, and the urgency they attached to a just and lasting settlement in accordance with United Nations resolutions and principles of international law.

On many occasions the Security Council and the General Assembly had declared the inadmissibility of the acquisition of territory by war and had insisted that Israel should withdraw from the occupied territories. Both United Nations organs had consistently maintained that the territories that came under Israeli control during the 1967 war were occupied territories and that the Fourth Geneva Convention de jure applied to these territories. In its resolution 681 (1990) the Security Council requested the Secretary-General in cooperation with the International Committee of the Red Cross, to develop further the idea of convening a meeting of the High Contracting Parties to the Convention and to monitor the situation regarding Palestinian civilians under Israeli occupation. In a recent statement issued by the President of the Security Council, the members of the Council urged Israel to abide at all times by its obligations under the Convention. They expressed their concern that any escalation of violence would have serious implications for the ongoing peace process. He said the Secretary-General firmly believed that pending a political settlement, the most effective way of ensuring the safety and protection of

the civilian population of the occupied territories would be for Israel to apply fully the Fourth Geneva Convention.

He said that the Secretary-General had followed with keen interest the intense diplomatic efforts, which culminated in the historic decision by the parties to the Middle East conflict to come to the negotiating table. He stressed that although those negotiations were taking place outside the United Nations, they were based on Security Council resolutions 242 (1967) and 338 (1973), long recognized as the cornerstone of an overall settlement. He recalled resolution 46/75 in which the General Assembly welcomed the convening of the Peace Conference and requested the Secretary-General to continue his efforts with the parties concerned, and in consultation with the Security Council, for the promotion of peace in the region.

It was the Secretary-General's earnest hope that the momentum generated by the Madrid talks and the more recent rounds of bilateral negotiations in Washington, D.C., and other capitals would be sustained, and that the lasting peace so long denied to all the peoples of the Middle East would become a reality. The Secretary-General would do all in his power to discharge the responsibilities entrusted to him in that regard by the United Nations.

In concluding, he recognized the efforts of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and extended his full support to the Committee in all its endeavours to promote international efforts so as to enable the Palestinian people to gain its legitimate rights.

Statement by the Chairman of the Seminar

6. H.E. Mr. Victor Camilleri, Rapporteur of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and Chairman of the Seminar, pointed out that in view of the alarming deterioration of the situation in the occupied Palestinian territory, including Jerusalem, the Committee, in its programme of work for 1992, had decided to give priority to the need to end human rights violations, to ensure the international protection of Palestinians and to promote measures by the High Contracting Parties to the Fourth Geneva Convention to ensure respect for its provisions.

The presence of distinguished experts in international humanitarian law at the seminar testified to the concern with which the international community viewed the issue, and to the efforts to find the ways and means by which the Convention could be implemented. That concern had acquired the utmost urgency in the past years, because of the repressive measures adopted by the Israeli authorities against the intifadah.

The Committee had recently commemorated the twenty-fifth anniversary of the occupation and had stated that the Palestinian people was determined to attain and exercise its inalienable national rights, and that the continuation of the occupation would cause persistent tension and conflict in the region and threaten the credibility of the United Nations in its efforts to create a better and more just and peaceful world. The Committee had reiterated its call to the international community to ensure the protection of the Palestinian people and the attainment of a just and lasting settlement based on Security Council resolutions 242 (1967) and 338 (1973), and the fundamental principle of the inadmissibility of the acquisition of territory by war. The Committee's position found a vast echo among the world community.

Citing examples of how the Convention's provisions were being violated, he said they included the use of live ammunition against unarmed demonstrators, undercover killings, random beatings, torture as a method of interrogation, and other brutal attacks; the destruction of hundreds of houses by the military; collective punishments; illegal deportations; obstruction of the free passage of medicines and medical equipments; the illegal detention of prisoners; and interference with local civilian courts. A heavy taxation crippled the population's economic basis, most of the water sources had been taken over, settlements were spreading at the Palestinians' expense and the educational system and health services were constantly threatened. The Palestinians living in the occupied territory, including Jerusalem, had repeatedly appealed for international protection measures to defend them against assaults on their land, homes and their very existence. So far, measures to enforce the Convention, in view of Israel's continued intransigence, were lacking. What was needed was action and the political will to carry it out. He expressed the hope that the experts would address the crucial issue of the modalities needed to ensure respect for the Convention.

The Committee hoped that the various recommendations for action by the international community and by the High Contracting Parties, made by the Secretary-General, would be acted upon as soon as possible. In the light of the Council's efforts to develop further the United Nations role in preventive diplomacy, peacemaking and peace-keeping, as stated at the historic Summit meeting in January, the Committee hoped the Council would heed the repeated appeals of the Palestinians in the occupied territory for international protection even while searching for means to ensure a just and lasting peace.

Statement by the Chairman of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

7. H.E. Dr. Stanley Kalpagé, Chairman of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, pointed out that since its establishment by the General Assembly in 1968, the Committee had striven to draw international attention to the situation in the occupied territories as it affected the human rights of the civilian population.

The Government of Israel had persistently precluded the Special Committee from visiting the occupied territories to assess directly the human rights situation there. The Committee therefore relied on the evidence it could gather, both orally and in writing, including during annual visits to the Syrian Arab Republic, Jordan and Egypt. It also monitored statements by members of the Israeli Government reflecting its policy in the occupied territories, and the reports on measures taken to implement that policy.

He emphasized that since the Special Committee's inception, the Fourth Geneva Convention had been one of the main international instruments used in interpreting and carrying out its mandate. Israel's failure to apply the Convention in the occupied territories had been a principal concern of the Committee for many years, as it had given rise to serious human rights violations.

Most of the violations in the occupied territories resulted because Israel did not recognize the applicability of the Convention to those territories. Israel's assertion that it did apply most of the Convention's provisions did not reflect the reality, which was characterized by innumerable breaches.

Major violations included an accelerated settlements policy, particularly noticeable in Jerusalem. Israeli settlers continued to commit aggression and violence against the Palestinian and other Arab population, which further contributed to the climate of fear and tensions in the occupied territories. Such acts included raids on refugee camps by groups of settlers, as well as violent attacks against and the destruction of houses, cars and other Arab-owned property.

Referring to other violations by Israel of the Geneva Convention like deportations, administration of justice, prison conditions and the treatment of prisoners, the use of force against the civilian population, collective punishments, severe restrictions of fundamental freedoms, including education, he called on Israel to proceed with the full application of the relevant provisions of the Fourth Geneva Convention. In conclusion, he stated that occupation in itself was a human rights violation, and as long as such occupation continued, all international efforts must be directed towards the full application of the 1949 Geneva Convention.

Statement by the representative of Palestine

8. Dr. M. Nasser Al-Kidwa, Permanent Observer of Palestine to the United Nations, emphasized that the 25-year-old Israeli occupation of Palestinian territory, including Jerusalem, and other Arab territories was the most important reason for the Middle East crisis and the Arab-Israeli conflict. It was also the source of continuing suffering of the Palestinian people. The real solution to the Palestinian suffering lay in ending the occupation.

The prolonged Israeli occupation might be considered a form of aggression, as defined by the General Assembly in resolution 3314 (XXVI). That increased the responsibility of the international community and required that the Security Council act under Chapter VII of the Charter if the situation continued. Until that occupation was ended, the international community was obligated to provide Palestinian civilians with protection. That could be achieved through compliance, by Israel, with humanitarian international law, in particular the Fourth Geneva Convention, and/or through the approval by the Council of an impartial international presence in the occupied Palestinian territory.

He referred to the fact that repeated appeals to Israel had produced no results. The only option left was for the High Contracting Parties to the Convention to adopt measures to ensure its compliance, both individually and collectively. He supported the holding of a meeting of those Parties to consider how to ensure respect for the Convention. At the same time, the High Contracting Parties had an obligation to take specific legal and operational measures at the national level to ensure compliance with their contractual obligations.

He continued by saying that the Security Council should discharge its responsibilities vis-à-vis the situation in the occupied territory, and he supported all the ideas that had been put forward in that context. They included instructing the Secretary-General to appoint an official who would reside in the occupied territory; charging the United Nations Truce Supervision Organization (UNTSO) with monitoring the situation in the occupied territory; deploying United Nations international observers in the occupied territory; and deploying United Nations forces to ensure the protection of the Palestinian people, which might replace the occupation forces, at least in the heavily populated areas in the initial stages. He pointed out that it was urgent for the international community to take immediate action to provide protection to the Palestinian people. The continuation of the dangerous situation in the occupied Palestinian territory would certainly lead to a general explosion. He stated that all measures to protect the civilian Palestinian population should be considered to be in conformity with the ongoing peace process and with any efforts being exerted with the aim of achieving a comprehensive and permanent peace in the Middle East region. It would help the current peace process and accelerate it; those measures were even a prerequisite for the success of the process.

Reviewing the developments that had taken place since the beginning of the intifadah, he stressed that the Security Council in resolution 605 (1987) had acknowledged its responsibility to protect the Palestinian civilian population. The Secretary-General, in a report approved by the Council, had recommended that the international community should make a concerted effort to persuade Israel to accept the de jure applicability of the Fourth Geneva Convention and to comply fully with it. In its resolution 681 (1990) the Security Council had urged the Government of Israel to accept the de jure applicability of that Convention and to abide by it. By that the Council demonstrated that the issue is not only one of the humanitarian conditions, but also the status of those territories as occupied territories. In the same resolution the Council had called upon the High Contracting Parties to ensure respect by Israel for its obligations under the Convention, a demand that legally imposes on the Member States, particularly members of

the Security Council, the duty of abiding by their obligations under the Convention by taking, individually or collectively, the measures necessary to ensure respect for the Convention. The Council also requested the Secretary-General to develop further his idea of convening a meeting of the High Contracting Parties to the Convention to discuss possible measures that might be taken by them.

In the same resolution, the Council had also entrusted to the Secretary-General continuing responsibilities for monitoring and observing the situation regarding the Palestinian civilians living under Israeli occupation. That meant that the Secretary-General had been authorized to build a civilian mechanism of his own to carry out the task entrusted to him by the Council. Palestinians attached great importance to the implementation of that resolution. At the same time, they called on Member States to support the Secretary-General's idea of convening a meeting of the High Contracting Parties.

In conclusion, he called for urgent compliance with the provisions of resolution 681 (1990), including the submission of progress reports every four months by the Secretary-General.

Other statements

9. The opening session was also addressed by representatives of Governments and intergovernmental organizations. In a statement delivered by Mr. Saeed Mohammed Al-Faihani (Bahrain) on behalf of the Group of Arab States, the Arab Group urged the international community, in particular the Security Council, to take measures to compel Israel to accept the de jure applicability of the Convention to the occupied Palestinian territory, including Jerusalem, and to make Israel halt its policies and practices, and to comply fully with the letter and spirit of the Convention. H.E. Mr. Mahmoud Aboul-Nasr, Permanent Observer for the League of Arab States, emphasized that the seminar should remind the Security Council that its decisions on the question of Palestine remained unimplemented. The same yardstick and measures used in respect to other States should be used for Israel. H.E. Dr. Nabil A. Elaraby, Permanent Representative of Egypt to the United Nations stressed the collective responsibility of the international community for the protection of the Palestinian people, which would pave the way and improve the climate for a just and desired peace. H.E. Mr. Nabil Mahrouf, Assistant Secretary-General of the Organization of the Islamic Conference, pointed out that the Islamic States called for the implementation of the relevant United Nations resolutions and for international protection of the Palestinian people.

B. Round-table discussion

10. Seven experts presented papers on the subject of the seminar:

Dr. Haidar Abdel Shafi (Palestinian); Ms. Jeanne Butterfield (United States of America); Mr. Tom Farer (United States of America); Mrs. Felicia Langer (Israel); Mr. John Quigley (United States of America); Mr. Charles Shammas (Palestinian); Mr. Raji Sourani (Palestinian);

11. **Dr. Haider Abdel Shafi** (Palestinian), Chairman of the Palestinian Red Crescent in Gaza and head of the Palestinian delegation to the current Arab-Israeli peace negotiations, said it was impossible to know the suffering of the Palestinian people unless one lived in the occupied territories. The solution would be to end the occupation, preceded by an interim period. The Palestinians had accepted the concept of an interim period.

He pointed out that forcing Israel to abide by the Fourth Geneva Convention would be a good start. Israel had indoctrinated its settlers in the occupied territories into believing that they were there as a matter of right. Invoking international law would make the settlers realize that that was not the case. It was wrong to pass more resolutions and make more statements without taking action. If Governments would not act, the people must make it impossible for them to continue their inaction in the face of continuing violation of human rights and principles.

12. **Mr. Raji Sourani** (Palestinian), Director of the Gaza Centre for Rights and Law, stressed at the outset that the Israeli Government was internationally isolated in insisting that the Fourth Geneva Convention did not apply to the territory occupied in 1967. At the same time, the international community remained unwilling to meet its responsibilities. Condemnation of Israeli practices had become stronger, but the High Contracting Parties to the Convention were not prepared to confront even grave breaches. He pointed out that the human rights situation in the occupied Palestinian territory was by that time worse than ever. Referring to the Convention and to Security Council resolution 681 (1990) he said that the United Nations Secretary-General was entrusted with ongoing responsibilities for Palestinians living under Israeli occupation by pursuing the idea of convening a meeting of High Contracting Parties and by monitoring and observing the situation in the occupied territories. A progress report was requested every four months, but only one appeared so far due to the stand of certain members of the Security Council, who did not wish to see that resolution implemented. At the same time resolution 681 (1990) provided a mechanism for drawing sustained international attention to violations of the Convention by Israel. It was important that the United Nations Secretary-General and the President of the International Committee of the Red Cross committed themselves to convening a meeting of the High Contracting Parties. So far the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNWRA) and International Committee for the Red Cross (ICRC) had programmes where their members functioned as quasi-human rights observers and interceded when possible with the occupation authorities on behalf of civilians. That programme had, however, very limited effectiveness due to a lack of consistent public support,

in particular from the Security Council. At the same time, they had the potential to expand human rights monitoring. He called upon the United States, Canada and the European Community to condition various aspects of their bilateral relations with Israel to Israel's de jure application of the Fourth Geneva Convention. Countries with diplomatic representations in Jerusalem or Israel could monitor developments more closely, by paying frequent visits to the occupied Gaza Strip and West Bank, including Jerusalem, and publicly reporting on their findings. He continued by saying that the international community still had to prove the will to use the available mechanisms to ensure that Israel respects the Convention. He drew attention to a new form of deportation, the so-called temporary, voluntary expulsion. It was imperative for the Security Council to prevent Israel from taking that action. He concluded by stressing that for 25 years of Israeli occupation, the High Contracting Parties to the Convention had failed to live up to their obligation. Enforcing it now would help improve chances for peace by improving the overall climate and reducing tensions between the two parties.

13. **Mrs. Felicia Langer** (Israel), lawyer and Vice-President of the League of Human and Civil Rights in Israel, referred at the outset to the most important articles of the Fourth Geneva Convention relating to the protection of basic human rights of the inhabitants of occupied territories (art. 146) and the definition of grave breaches of the Convention (art. 147). She analysed the Israeli position, which rejects the de jure applicability of the Convention and the stand of the Israeli Supreme Court, which ruled out the possiblity of applying the Convention. Internationally, that position was vehemently rejected by the vast majority of legal experts, ICRC and others. She stressed that in no place the sovereignty upon the occupied territory prior to its occupation was mentioned as a precondition for the application of the Convention which was "people oriented" and not "territory oriented". The International Court of Justice stated in its advisory opinion in the case of Namibia that "physical control of a territory and not sovereignty or legitimacy of title is the basis of state liability for acts affecting other States". Accordingly, each State had the duty to carry out its obligations under the Convention.

She then described the Israeli practices in the occupied territories, the violations of human rights in defiance of the Fourth Geneva Convention such as deportations, collective punishments, torture, summary executions by undercover units, land expropriation, settlement policy, the result of which was a clear policy of apartheid, repression of Palestinian culture, and cited examples from her own experience as a lawyer. She declared with regret that for none of the enumerated violations of human rights was a Palestinian able to obtain a real remedy. The various advisory (military) appeal boards were no more than a rubber stamp of the commander's action. Also, the High Court of Justice refused consistently to safeguard the elementary human rights of the Palestinians. Her conclusion was that the Palestinians in the occupied territories were outlawed and that they needed urgently international protection.

She then referred to various Security Council and General Assembly resolutions insisting on the applicability of the Fourth Geneva Convention to the occupied territories. Being arrogantly ignored by Israel, those resolutions proved a strong and long-lasting impotence of the international body towards Israel. In the light of the fact that Israel was committing grave

breaches of the Convention, which she qualified, basing herself on the ICRC commentary of the Convention, as war crimes, the other High Contracting Parties had the clear obligation to intervene in order to secure respect for the Convention. She appealed to the High Contracting Parties to apply the Convention to Israel and to demand from Israel that it respect from now on all the maxims of the Convention. In case Israel continued to refuse to do so, the United Nations Security Council should appoint a Protecting Power, as defined in the Convention, to protect the inhabitants of the occupied territories. In the case of non-action by the Security Council due to a veto by the United States, the General Assembly should act on the basis of the "Uniting for Peace Resolution", pertaining to the enforcement of the Convention by Israel.

14. **Mr. Tom Farer** (United States of America), Professor and Director of the Joint Program in Law and International Relations, American University, Washington, D.C., stressed at the outset that the international community and the United Nations Security Council in particular, declared categorically that the Fourth Geneva Convention was applicable to all the Arab territories occupied by Israel since 1967. Israel was legally obligated to respect the Security Council decisions, but until now rejected it. At the same time, the Convention provided only a minimum of protection and in times of peace, its modest standards were an insufficient measure of a nation's obligation.

He said that the customary law of human rights and the Fourth Geneva Convention collectively prohibit a State from condoning murder and torture, from imposing collective punishment and from consistent and gross violations of other internationally recognized human rights. Israel had violated all those prohibitions. Collective punishment violated a specific international prohibition as well as the bedrock principle of individual responsibility that supported the whole edifice of human rights. The carnage in the occupied territories appeared to be at least partially the result of wanton indifference to the crippling and death of their non-Jewish inhabitants. That conclusion was reinforced by the derisory penalties imposed even in those exceptional cases where agents of the Israeli Government had been tried and found guilty of employing excessive force. He elaborated on the other forms of grave breaches of the Convention like violent and coercive interrogation and said that if Israeli behaviour was driven by the conviction that the episodic use of deadly force serves as a deterrent and was therefore a relatively efficient means for suppressing resistance to Israeli rule, then that behaviour may properly be described as a form of state terrorism: the employment of force or the threat thereof against a limited set of targets for the purpose of engendering fear in a larger audience and thereby advancing political ends.

He referred to the discrimination against Palestinians in favour of Israeli settlers and said that it appeared that one purpose of discrimination was restricting Palestinian society while encouraging the settlement of Jews on land in the occupied territories that would otherwise have been available to absorb an expanding Palestinian population. In conclusion, he recommended that the General Assembly or the Security Council in the light of previous experience as for example in the case of Namibia, should seek an advisory opinion from the International Court

of Justice whether the actions by Israel in the occupied Palestinian territories, including Jerusalem were in violation of the provisions of the Fourth Geneva Convention.

15. **Mr. Charles Shammas** (Palestinian), member of the Executive Committee of al-Haq, Ramallah, emphasized that the Convention provided specific rights and protections to the Palestinian people in the occupied territories, in particular protection against Israeli settlements, deportation of Palestinians, collective punishments and extensive expropriation and destruction of property. He pointed out that over 160 States, High Contracting Parties to the Convention, had committed themselves to observe and to promote the universal observance of the humanitarian standards and norms set forth in the Convention. As a consequence each High Contracting Party had in fact a jurisdiction to exercise over broad areas of Israel's conduct as an occupant. It had assumed a direct obligation, responsibility and mandate to act in accordance with the Convention on behalf of the protection of Palestinian civilians, which may be discharged through individual or joint action. He referred to Security Council resolutions 672 (1990) and 681 (1990) and the subsequent reports by the Secretary-General and summarized reactions by United Nations of the States Members to the proposal to convene a special meeting of the High Contracting Parties to the Convention. According to that report, there was a need to consider a variety of actions, including more developed and effective international monitoring and other means of achieving the protection of Palestinian civilians through international action utilizing the political organs and resources of the United Nations. It was desirable to establish a consultative committee of High Contracting Parties with a view to closely examining ways of ensuring Israeli respect for the Convention. It was also indicated that international efforts to secure respect for the Convention were important for the resolution of the Arab-Israeli conflict and the question of Palestine. He pointed out that the enforcement of basic standards and norms of state practice through international cooperation was a very powerful method of diplomacy. Moreover, such law-based diplomacy was particularly well-suited to the promotion of international protection and international dispute settlement in accordance with the principles of the Charter of the United Nations. He stressed that the most immediate problem was how to persuade Israel to cooperate. Action should be taken by individual High Contracting Parties, jointly or separately. It was, however, incumbent on the United Nations and on the Committee on the Exercise of the Inalienable Rights of the Palestinian People to focus discussion and expertise on identifying and developing practical options for lawful and effective state action.

16. **Mr. John Quigley** (United States of America), Professor of Law, Ohio State University, pointed out that violations of the rights accorded to a protected population had been committed consistently by Israel in the Palestinian territories it occupied in 1967. The Fourth Geneva Convention provided, in its article 1, for the collective responsibility of all contracting parties with respect to any situation of belligerent occupation. article 1 called on States parties to "ensure respect for the present Convention in all circumstances."

Although some High Contracting Parties had on occasion acted to carry out this obligation, they had not done so in a concerted fashion. In particular, they had not established a mechanism by which to investigate allegations of violations and to make a factual

determination. In its resolution 681 (1990), the Security Council had recognized the need for more effective action by the High Contracting Parties to the Convention in monitoring Israel's compliance.

In order to carry out their obligations under article 1 effectively, the High Contracting Parties to the Convention should establish such a mechanism. They might act individually to monitor violations, or they might establish it as a group. A monitoring mechanism should include an investigative arm to determine facts, and an adjudicatory arm to determine whether in a particular instance Israel had complied with its obligations under the Fourth Geneva Convention and other applicable human rights instruments.

It was also open to the High Contracting Parties to nominate an organization, either intergovernmental or non-governmental, to monitor the situation in the occupied territories. A number of States, including the United States of America, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories as well as a variety of NGOs had regularly been collecting such information.

He emphasized the need for an enforcement mechanism that would recommend that international respect was critical and would call on States to maintain a presence in the territory in question for monitoring purposes. One alternative would be to establish in the United Nations a monitoring organization through which High Contracting Parties to the Convention could carry out their responsibilities under article 1. Monitoring stations should be established at locations throughout the territories. The monitoring agency would be in part investigatory and in part adjudicatory. It would need the cooperation of the Palestinian community and of the Government of Israel. As a State Party to the Geneva Convention, Israel would be obliged to comply with measures resolved upon by the other High Contracting Parties. If the Israeli Government were to show reluctance to admit the monitoring personnel, such a refusal would have to be considered by the Security Council as a potential threat to the peace.

17. **Ms. Jeanne Butterfield** (United States of America), lawyer and Chairman of the North American Coordinating Committee for NGOs on the Question of Palestine emphasized at the outset the need for protection of the Palestinian people's human and national rights. They were also to be protected from political and cultural genocide as well as from apathy and disinterest of the world. In the light of the deteriorating situation of the Palestinian people in the occupied territories, the escalation of targeted killings, the lack of employment, the scarcity of food and water, the ever-continuing expansion of Israeli settlements, the NGOs had to act to complement the United Nations efforts and to serve as a spark to more urgent action.

She lauded the role of NGOs in public education and said that by writing, by organizing public events, by producing films and videos, by working to inform the media, by traveling to the region and bringing back eyewitness reports, they helped to make Palestinian voices heard. The NGO role in public opinion formation was more important than ever. Public reaction was

important for international condemnation and for the support of governmental action. At the same time, public opinion must impact government policy and demand action. Therefore, the task of advocacy was a key element of NGO's role. The NGO community needed to step up these efforts and direct it at specific instances of violations of the Fourth Geneva Convention and of human rights. These actions should be directed at the Israeli Government, which should get flooded with protests, at the respective Governments and, in particular, at members of the United Nations Security Council. Governments should be urged with calls and visits, public petitions and congressional and parliamentary lobbying and even sometimes with public protest, to take stronger action to ensure protection. She pointed out that the implementation of international sanctions, and other measures such as scientific and cultural boycotts, were a powerful way to express the international will and to encourage compliance with United Nations resolutions and the Fourth Geneva Convention. NGOs should find visible and forceful ways to demand that Governments took such action. She quoted the example of the United States of America, was obligated by its own laws to suspend foreign aid to any country which engaged in gross and systematic violations of internationally recognized human rights. Appropriate action had worked well already in the past in relation to numerous countries.

She said that the NGOs supported the call for an emergency meeting of the High Contracting Parties, and for direct intervention by the United Nations through a United Nations ombudsman, United Nations observers or a United Nations peace-keeping force. In the absence of United Nations protection, the NGOs should continue and increase their assistance by guarding and defending Palestinians in immediate danger, by increasing material assistance, by international demonstrations or by sending eyewitness observers. Lessons from other NGO actions should be taken into account. The NGO project of an international peace walk needed to be expanded to provide an international presence in every community in the occupied Palestinian territories and along the green line. She concluded that only by increasing the efforts at public education, advocacy and direct intervention the NGO community could meet its own obligation.

Discussion

18. The deliberations in the seminar were marked by competence and a sense of determination to work together, in order to develop concrete proposals to ensure the full implementation of the Fourth Geneva Convention in the occupied territories. The discussions were substantive and productive, and covered all aspects of the applicability of the Fourth Geneva Convention to the occupied Palestinian territory.

19. The discussion focused on several central aspects of the issue. One of them was whether the International Court of Justice should be asked if Israel, as a High Contracting Party, was legally bound by the Fourth Geneva Convention in the occupied territories. Some experts expressed concern because the Court might be weak and suggest doubt about the finding of the

Security Council. It was stated in this connection that the question of Palestine had been considered in all United Nations organs, including the Trusteeship Council, with the exception of the judicial bodies. To discuss the issue in depth, it was suggested that the Committee on the Exercise of the Inalienable Rights of the Palestinian People held a separate seminar on whether an advisory opinion on the issue should be sought from the International Court of Justice.

20. Another main point of discussion concerned different ways and means available to the High Contracting Parties to the Convention to ensure respect for its obligations. It was suggested to seek action in harmony with the United Nations and its political organs. Consulates of High Contracting Parties in the occupied territories should take affidavits of grave breaches of human rights that would stand up in their own courts. Another proposal was to give thought to the possibility of forming a working group of High Contracting Parties to explore their obligation under article 1 of the Convention. If such a group of States, no matter how marginal or peripheral their real powers were, decided to declare themselves a working group and were willing to identify their concerns and interests regarding the violations of international law, it would spotlight the issue and act as a stimulus to other States.

21. A third aspect of the discussion dealt with the role of non-governmental organizations. It was said that for the time being only the NGOs could provide technical support, which the Palestinian people needed badly. Therefore, certain strategic activities for Palestinians should be developed within the framework of these organizations. NGOs could also act on the basis of the Fourth Geneva Convention and for instance, produce a case for prosecution in accordance with their findings (art. 146 of the Convention). Another important task would be action against the suppression of information by Israel. In general, NGOs should go beyond mobilizing public opinion and act more in the fields of law and diplomacy.

C. Closing meeting

22. At the closing meeting, the conclusions and recommendations reproduced below were introduced by the Chairman/Rapporteur and subsequently adopted by the Seminar participants. The closing meeting was addressed by Dr. M. Nasser Al-Kidwa, Permanent Observer of Palestine to the United Nations. H.E. Mr. Victor Camilleri, Chairman/Rapporteur of the Seminar made a closing statement.

D. Conclusions and recommendations

23. Participants took note with serious concern of numerous and persistent violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which the Security Council has declared to be applicable de jure to all the territories occupied by Israel since 1967, including Jerusalem. Such violations included the unlawful use of deadly force including selective summary executions, punitive beatings, torture, deportation, unlawful destruction of property, collective punishments, including the demolition of houses, curfews and the closing of educational institutions and other measures proscribed under international humanitarian law.

24. Participants expressed their utmost concern at the continuing and intensified illegal settlement activity and land confiscation in the occupied Palestinian territory, including Jerusalem, which posed a threat to the very existence of the Palestinian community. This policy was in clear violation of article 49 of the Fourth Geneva Convention and threatened the peace process. They stressed the imperative need for the immediate halt of such activities. Participants also expressed grave concern at the failure of the Israeli authorities to protect the Palestinian population from the unlawful violent actions of Israeli nationals in the occupied Palestinian territories.

25. Participants expressed the view that the Government of Israel, by rejecting its international accountability for its practices in the occupied Palestinian territory, including Jerusalem, had unilaterally and illegally denied the Palestinian people living under military occupation for over 25 years the status of protected persons under the Fourth Geneva Convention and had denied them the protection of customary and conventional international law.

26. Participants declared that it was the duty of the international community, in particular, the High Contracting Parties to the Fourth Geneva Convention, to ensure respect by Israel, the occupying power, for its obligations under the Convention. They stressed that the Convention's provisions were minimum standards, and that falling below them was a breach of international law.

27. Participants appealed to all High Contracting Parties to the Convention to fulfil their own responsibilities under the Convention. They emphasized the importance of article 1 of the Convention, which requires the High Contracting Parties to respect and to ensure respect for the Convention in all circumstances. They drew particular attention to article 146 of the Convention, which stated that High Contracting Parties undertook to seek out and prosecute persons accused of being involved in the perpetration of grave breaches.

28. Participants noted that in its resolution 681 (1990), the Security Council had requested the Secretary-General in cooperation with the International Committee of the Red Cross to develop further the idea of convening a meeting of the High Contracting Parties to the Fourth Geneva

Convention and had also requested the Secretary-General to monitor and observe the situation regarding Palestinian civilians under Israeli occupation, and to report periodically. They urged further action pursuant to the provisions of that resolution. They also welcomed the suggestions by the United Nations Secretary-General expressed in his report in accordance with Security Council resolution 672 (1990) to convene a special meeting of the High Contracting Parties to the Convention. Such a meeting would facilitate an exchange of views with the focus on measures outlined in the Convention, such as the appointment of a Protecting Power (art. 9), conciliation (art. 12) and the enquiry procedure (art. 149). They expressed the hope that such a meeting would take place at an early date.

29. Participants drew attention to the fact that the mechanisms of the Convention itself, which was designed to be enforced by a system of Protecting Powers and formally appointed substitutes, had never been implemented. However, in accordance with the Convention, the High Contracting Parties could nominate either an intergovernmental or a non-governmental organization, to monitor the situation in the territory under occupation. They suggested that High Contracting Parties to the Convention should utilize their consular presence more fully and effectively for monitoring purposes. A United Nations monitoring organization should be established through which High Contracting Parties would carry out their responsibilities under article 1 of the Convention. They expressed their deep appreciation for the efforts of the International Committee of the Red Cross to implement the Convention and called upon Israel to cooperate with it.

30. The plight of the Palestinian people under occupation had been compounded by the repeated action which the Israeli occupying forces had taken against the personnel of UNRWA engaged in the discharge of the mandate to provide humanitarian assistance to the Palestinian people under occupation. Participants expressed their appreciation to UNRWA for its invaluable work being carried out under difficult circumstances for the benefit of the Palestine refugees and Palestinians under Israeli occupation and called for the expansion of the scope and mandate of the UNRWA Refugees Affairs Officer Programme.

31. Participants recommended that in the light of previous experience, the General Assembly or the Security Council should seek an advisory opinion from the International Court of Justice with regard to the policies and practices of Israel, the occupying power, in the occupied Palestinian territory, including Jerusalem. On this matter a suggestion was made to convene a seminar for the further development of this idea.

32. Participants considered that it was imperative for all concerned to take necessary measures to ensure the physical protection and the safety and security of the Palestinian people in the Palestinian territory occupied since 1967, including Jerusalem. They appealed in particular to the Security Council to help achieve this objective by, inter alia, strengthening the United Nations presence in the occupied Palestinian territory. The Security Council should take all possible action to ensure respect by Israel, the occupying power, for its relevant resolutions.

33. Participants further recommended that the international NGO community support activities to ensure protection by increasing and expanding its efforts at public education, advocacy and direct involvement to provide protection. Such efforts could include NGO actions to promote concrete international measures aimed at ending unlawful policies and practices and to provide civilian volunteer observers and monitors who could, by their very presence, provide a certain measure of protection.

34. Participants expressed appreciation for the opportunity to have a full and candid discussion of the aspects of the application of the Fourth Geneva Convention to the occupied Palestinian territories, including Jerusalem, during the Seminar under the auspices of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. They hoped that the Seminar would result in effective action by the United Nations and the international community to ensure the protection of the Palestinian people under occupation and that it would pave the way for the achievement of a just, comprehensive and lasting settlement of the question of Palestine.

Annex

List of participants

Experts

Dr. Haidar Abdel Shafi (Palestinian)
Ms. Jeanne Butterfield (United States of America)
Mr. Tom Farer (United States of America)
Ms. Felicia Langer (Israel)
Mr. John Quigley (United States of America)
Mr. Charles Shammas (Palestinian)
Mr. Raji Sourani (Palestinian)

Governments

Algeria	Mr. Fateh Zeghib Second Secretary
Bahamas	Mr. Freddie C. Tucker Third Secretary
Bahrain	Mr. Saeed Al-Faihani Chargé d'affaires, a.i. Mr. Jabor Al-Romaihi Second Secretary
Bangladesh	Mr. Nazimullah Chowdhury Counsellor Mr. M. Fazlul Karim Second Secretary Mr. Masud Bin Momen Second Secretary
Bulgaria	H.E. Zdravko Velev Ambassador, Head of Division for Arab States, Ministry of Foreign Affairs Mr. Deyan Mihov First Secretary

China	Mr. CHENG Jingye Second Secretary
Costa Rica	Mrs. Nazareth Incera Minister
Côte d'Ivoire	Mr. Kramo Konan Counsellor Ms. Gisèle Kete Counsellor
Cuba	Mr. Rene J. Mujica Cantelar Minister Counsellor Mr. Flavio D. Gonzalez Third Secretary
Cyprus	Mr. Michalis Stavrinos Second Secretary Mr. George Kasoulides Second Secretary
Ecuador	Mr. José Rosenberg Second Secretary
Egypt	H.E. Dr. Nabil A. Elaraby Permanent Representative
France	Mlle Christine Robichon Counsellor M. Joseph Silva First Secretary
Ghana	Mr. Clifford Kotey Counsellor
Guatemala	H.E. Mr. Rafael Castellanos-Carrillo Alternate Representative Ms. Virginia Cabrera-Grijalva Second Secretary
Guyana	Miss Jennifer Wills First Secretary
Haiti	Mr. Viking Merçeron Attaché

Honduras	Mr. Nelson Alexander Valenzuela Soto Counsellor Mr. Marco Antonio Suazo Fernandez First Secretary
Hungary	Mr. Ferenc Gajda Senior Counsellor
India	Mr. Dinesh Kumar Jain Counsellor
Indonesia	Mr. Eddy Setiabudhi Third Secretary
Iraq	Mr. Qazim A. Shakir Counsellor
Ireland	Mr. John D. Biggar First Secretary
Jordan	H.E. Mr. Adnan S. Abu Odeh Permanent Representative Mr. Hussein Kheir Second Secretary
Lebanon	Mr. Nouhad Mahmoud Counsellor Ms. Susan Smith Assistant to the Ambassador
Libyan Arab Jamahiriya	H.E. Dr. Ali Ahmed Elhouderi Permanent Representative
Madagascar	Mr. Raymond Raolina Minister
Malaysia	Mr. Zainal Abidin Ahmad First Secretary
Malta	H.E. Mr. Victor Camilleri Permanent Representative
Mauritania	Mr. Mohamed Saleck Ould Mohamed Lemiene Counsellor

Mauritius	H.E. Dr. Satheeanund Peerthum Permanent Representative Mr. Patrice Curé Deputy Permanent Representative Mr. Israhyananda Dhalladoo Second Secretary
Mexico	Mr. Federico Salas Counsellor
Morocco	Mr. Abdelouahab Bellouki Counsellor
Myanmar	H.E. U Kyaw Min Permanent Representative U. Ye Myint First Secretary
Namibia	Mr. George M. Liswaniso First Secretary
Nicaragua	Mrs. Myrna Peña Second Secretary
Oman	Mr. Mohammed Abdullah Al-Sameen First Secretary
Pakistan	Mr. Sher Asgan Khan Deputy Permanent Representative Mr. Alamgir Babar First Secretary
Philippines	Mr. Claro S. Cristobal Third Secretary
Republic of Korea	Mr. Chan Ho Ha First Secretary
Saudi Arabia	Mr. Mustafa Kawthar Chargé d'affaires, a.i.
Senegal	Mr. Sarr Diame First Counsellor

Spain	Mr. Juan José Urtasun Counsellor
Sri Lanka	Mrs. Chandra Amerasekare Counsellor
Suriname	Mr. Ewald W. Limon Second Secretary
Sweden	Mr. Staffan Duhs Counsellor Ms. L. Danielsson Counsellor
Syrian Arab Republic	Mr. Mohammad Najdat Shahid First Secretary
Tunisia	H.E. Mr. Hamadi Khouini Permanent Representative
Turkey	Mr. Fuat Tanlay Counsellor Mr. Aydin Sefa Akay Legal Consellor
Ukraine	H.E. Mr. Viktor H. Batiouk Permanent Representative Mr. Volodymyr D. Khandogy Counsellor
United Arab Emirates	Dr. Burhan W. Hammad Senior Advisor
Viet Nam	Mr. Le Hoai Trung Third Secretary
Yugoslavia	H.E. Mr. Dragomir Djokić Ambassador, Chargé d'affaires Mr. Milós Strugar Counsellor
Zambia	Mr. G.M.S. Mfula Counsellor
Zimbabwe	Mr. Godfrey Dzvairo Counsellor

Non-member States maintaining permanent observer missions at the United Nations

Holy See	Mr. Dupuy Andu Counsellor

United Nations organs

Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	H.E. Dr. Stanley Kalpagé Chairman, Permanent Representative of Sri Lanka

United Nations specialized agencies and bodies

International Labour Organisation (ILO)	Mr. G. Minet, Deputy Director New York
Food and Agriculture Organization of the United Nations (FAO)	Mr. J. Camara, Director FAO Liaison Office, New York
United Nations Educational, Scientific and Cultural Organization (UNESCO)	Mrs. Neh Dukuly-Tolbert Senior Liaison Officer
World Health Organization (WHO)	Mr. Chin-Min Lee Principal External Relations Officer Ms. Cynthia Winsor Assistant
Office of the United Nations High Commissioner for Refugees (UNHCR)	Mr. Romero-Perez Deputy Director UNHCR Liaison Office, New York
United Nations Environment Programme (UNEP)	Mr. Omer El-Shaikh
United Nations Centre for Human Settlements (Habitat)	Dr. Ganti Rao Director, UNCHS (Habitat)

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	Mr. William Lee Chief, UNRWA Liaison Office New York
Economic and Social Commission for Western Asia (ESCWA)	Mr. Ahmad Hussein

Intergovernmental organizations

Asian-African Legal Consultative Committee	H.E. Mr. K. Bhagwat-Singh Permanent Observer
League of Arab States	H.E. Mr. Mahmoud Aboul Nasr Permanent Observer
Organization of the Islamic Conference	H.E. Mr. Nabil Taleb Maarouf Assistant Secretary-General for Al-Quds and Palestine

Other organizations having received a standing invitation to participate in the sessions and the work of the General Assembly as observers and maintaining permanent offices at Headquarters

Palestine	Dr. M. Nasser Al-Kidwa Permanent Observer
	Dr. Riyad H. Mansour Deputy Permanent Observer
	Mrs. Maha Giacaman Khoury Counsellor

Non-governmental organizations

American-Arab Relations Committee	Ms. Ann Leggett
Organization of Arab-American University Graduates	Mr. Renate T. Ghannam

Church of Humanism	Ms. Emma E. (Beth) Barnsley Rev. Joseph Ben-David
Dayemi Complex, Bangladesh	Mr. Golam Samdani Mr. Nurol Alam H.H. Md Nural Alam Mr. Dolam Samdani
Friends of Jerusalem	Ms. Marisa Gioffre Ms. Harriet Karchmer
House of Amanda	Mr. Chittosh Ghosh
International Jewish Peace Union	Mr. Martin Rivli
International Organization for World Peace, Disarmament, Development and Human Rights	Mr. Diptindra N. Das Mr. Abu Raihan Chowdhury Dr. Sachi G. Dastidar Mr. Seshadri K. Gupta
Jewish Peace Fellowship	Mr. Henry Schwarzschild
Labour Committee on the Middle East	Mr. Jeffry Blankfort
Muslim World Peace	Mr. Saiyed Mazhar Hussain
My Brother's Keeper Center for Democracy and Human Rights	Ms. Marie Dominik
National Lawyers' Guild	Ms. Colleen McGuire
World Muslim Congress	Dr. V. A. Hamdani

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